



# PUBLIC NOTICE

Federal Communications Commission  
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Washington, D.C. 20554

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DA 05-384

February 11, 2005

## INTERNATIONAL BUREAU SEEKS COMMENT ON PETITION FOR RECONSIDERATION OF THE FOREIGN OWNERSHIP GUIDELINES FOR FCC COMMON CARRIER AND AERONAUTICAL RADIO LICENSES

IB Docket No. 05-55

Comment Date: March 14, 2005

Reply Comment Date: March 29, 2005

On December 17, 2004, Wilkinson Barker Knauer, L.L.P. ("Wilkinson Barker")<sup>1</sup> filed a petition seeking reconsideration of the *Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licenses* (the "*Foreign Ownership Guidelines*") that were issued by the International Bureau on November 17, 2004.<sup>2</sup> The International Bureau ("Bureau") issued the *Foreign Ownership Guidelines* to assist the public and applicants in understanding and complying with the Commission's interpretation of Section 310, its rules, and foreign ownership policies as set forth in precedent.<sup>3</sup> In the *Foreign Ownership Guidelines*, the Bureau, among other things, described the applicability of Sections 310(b)(3) and 310(b)(4) of the Communications Act of 1934, as amended, to certain foreign investments.<sup>4</sup>

Wilkinson Barker seeks reconsideration of the Bureau's description of the applicability of Sections 310(b)(3) and 310(b)(4) of the Act to certain foreign investments.<sup>5</sup> Specifically, Wilkinson Barker contends that interpreting Section 310(b) in the manner set forth in the *Foreign Ownership Guidelines* would create a new barrier to foreign entry into the U.S. telecommunications market.<sup>6</sup> Further, Wilkinson Barker contends that the interpretation of Section 310(b)(3) of the Act, as set forth in the *Foreign Ownership Guidelines*, is inconsistent with the Act, its legislative history, and current Commission practice and precedent.<sup>7</sup> Accordingly, Wilkinson Barker requests that the Bureau revise the

<sup>1</sup> Wilkinson Barker is a law firm that concentrates in telecommunications and provides legal services both to Commission licensees and to foreign entities investing in Commission licensees. Wilkinson Barker Knauer, L.L.C. Petition for Reconsideration of the Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licenses at 1 n.1 (filed December 17, 2004) ("Petition for Reconsideration").

<sup>2</sup> *Foreign Ownership Guidelines for FCC Common Carrier and Aeronautical Radio Licenses*, 19 FCC Rcd 22612 (Int'l. Bur. 2004).

<sup>3</sup> *Id.* at 22614-15.

<sup>4</sup> See *id.* at 22617-20, 22625, 22627-28, 22631.

<sup>5</sup> Petition for Reconsideration.

<sup>6</sup> *Id.* at 4-6.

<sup>7</sup> *Id.* at 6-13.

*Foreign Ownership Guidelines* to state that Section 310(b)(3) of the Act applies only to *direct* alien ownership of licensees and that Section 310(b)(4) applies to all *indirect* ownership, regardless of whether the foreign investment is in a U.S. company that controls the licensee.<sup>8</sup> In the alternative, Wilkinson Barker urges the Bureau to exercise its discretion under 47 C.F.R. § 1.106 and refer this matter to the full Commission for resolution.<sup>9</sup>

We invite comments on the procedural and substantive issues raised by Wilkinson Barker's Petition for Reconsideration. Interested parties may file comments on the petition on or before **March 14, 2005**. Reply comments are due by **March 29, 2005**. All filings concerning matters referenced in this Public Notice should refer to **IB Docket No. 05-XXX**.

Under the Commission's current procedures for the submission of filings and other documents,<sup>10</sup> submissions in this matter may be filed electronically (*i.e.*, though ECFS) or by hand delivery to the Commission's Massachusetts Avenue location.

- **If filed by ECFS,**<sup>11</sup> comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.
- **If filed by paper,** the original and four copies of each filing must be filed by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

One copy of each pleading must be delivered electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth above for paper filings), to: (1) the Commission's duplicating contractor, Best Copy and Printing, Inc., at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com) or (202) 488-5563 (facsimile), (2) Susan O'Connell, Policy Division, International Bureau, at

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<sup>8</sup> *Id.* at 3, 13.

<sup>9</sup> *Id.* at 3, 14 (citing 47 C.F.R. § 1.106).

<sup>10</sup> See *Implementation of Interim Electronic Filing Procedures for Certain Commission Filings*, Order, 16 FCC Rcd 21483 (2001); see also *FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence*, Public Notice, 16 FCC Rcd 22165 (2001); *Reminder: Filing Locations for Paper Documents and Instructions for Mailing Electronic Media*, Public Notice, 18 FCC Rcd 16705 (2003).

<sup>11</sup> See *Electronic Filing of Documents in Rulemaking Proceedings*, GC Docket No. 97-113, Report and Order, 13 FCC Rcd 11322 (1998).

susan.o'connell@fcc.gov or (202) 418-2824 (facsimile), (3) Francis Gutierrez, Policy Division, International Bureau, at francis.gutierrez@fcc.gov or (202) 418-6763 (facsimile), and (4) Neil Dellar, Office of General Counsel, at neil.dellar@fcc.gov or (202) 418-6966 (facsimile).

Copies of the petition and any subsequently-filed comments in this matter may be obtained in person from Best Copy and Printing, Inc., at 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, via telephone at (202) 488-5300, via facsimile at (202) 488-5563, or via e-mail at fcc@bcpiweb.com. The petition and any associated documents are also available for public inspection and copying during normal reference room hours at the FCC Reference Information Center, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. They are also available electronically through the Commission's ECFS, which may be accessed on the Commission's Internet website at <http://www.fcc.gov/cgb/ecfs/>. Alternate formats of these documents (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 (voice), (202) 418-7365 (TTY), or by sending an e-mail to access@fcc.gov.

For further information, please contact Susan O'Connell or Francis Gutierrez, Policy Division, International Bureau at (202) 418-1460.

By the Chief, International Bureau.

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